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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------------|------------------|
| 09/889,759  | 07/20/2001  | Aribert P. Wolfram   | WOLFRAMM ET                      | 1045             |
| 25889   | 7590        | 09/03/2003           |                                  |                  |
| WILLIAM COLLARD<br>COLLARD & ROE, P.C.<br>1077 NORTHERN BOULEVARD<br>ROSLYN, NY 11576 |             |                      | EXAMINER<br>BUCZINSKI, STEPHEN C |                  |
|   |             |                      | ART UNIT<br>3662                 | PAPER NUMBER     |

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                |  |
|------------------------------|-----------------|----------------|--|
| <b>Office Action Summary</b> | Application No. | Applicant(s)   |  |
|                              | Examiner        | Group Art Unit |  |

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

**Period for Response**

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

Responsive to communication(s) filed on 11 AUGUST 2003

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

Claim(s) 4-9 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 4-9 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

**Attachment(s)**

|  |   |
|--|---|
| <input type="checkbox"/> Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ | <input type="checkbox"/> Interview Summary, PTO-413                     |
| <input type="checkbox"/> Notice of References Cited, PTO-892                               | <input type="checkbox"/> Notice of Informal Patent Application, PTO-152 |
| <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review, PTO-948           | <input type="checkbox"/> Other _____                                    |

**Office Action Summary**

Art Unit 3662

1. Claims 4-9 remain rejected under 35 U.S.C. § 112, first and second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The newly added language to the specification and to the claims is still not clearly described or shown. Where is the “additional transmitting/receiving antenna” that is sharply focussed or has a narrow beam in the drawings that is also distinguishable from Fig. 7a & b of Klausing? There is no way to distinguish the invention by this language from the apparatus in Klausing as noted in the rejection below. Until the concepts are shown and described to be enabling, no matter how rudimentary, this rejection is required.

3. The specification is objected under 35 U.S.C. 112, first paragraph as above.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4-9 remain rejected under 35 U.S.C. 102(b) as being anticipated by Klausing.

Given the ambiguity in what is intended in the present claims and specification, the Fig. 7 embodiments of Klausing appear to continue to teach the same concepts, since no distinguishing apparatus has been shown in the present invention to back up applicant's claim to the contrary. No “additional” antenna can be found with the base antenna in the present disclosure. If this problem is not clear to the Applicant, perhaps a phone call is necessary to direct Applicant to the problem.

6. The drawings are objected under 37 CFR 1.83 in that every feature claimed must be shown as argued above.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE

SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Any inquiry concerning this communication should be directed to Stephen C. Buczinski at telephone number (703) 305-1835.



STEPHEN C. BUCZINSKI  
PRIMARY EXAMINER